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From: Baird, Kevin (WSP)
Sent: Friday, December 1, 2023 6:51 AM
Subject: WSP Firearms Background Division Update - December 2023

Good morning!

We survived Black Friday and are already into December!

I want to begin by providing a reminder of things that will be happening in the new year:

1. On January 1, 2024 we will provide the *Official Notification* as required by RCW 9.41.1135(1) and RCW 43.43.580, which means that all FFLs in our state will be required to use SAFE starting February 1, 2024:

RCW 9.41.1135

Firearms sales or transfers—Use of Washington state patrol firearms background check system. (Effective January 1, 2024.)

(1) Beginning on the date that is thirty days after the Washington state patrol issues a notification to dealers that a state firearms background check system is established within the Washington state patrol under RCW [43.43.580](#), a dealer shall use the Washington state patrol firearms background check program to conduct background checks for all firearms transfers. A dealer may not sell or transfer a firearm to an individual unless the dealer first contacts the Washington state patrol firearms background check program for a background check to determine the eligibility of the purchaser or transferee to possess a firearm under state and federal law and the requirements and time periods established in RCW [9.41.090](#) and [9.41.092](#) have been satisfied.

2. RCW 9.41.090, .092, and .1132 change the requirements for release of a firearm (entire RCWs not displayed due to length).
 - FFLs are required to obtain proof to training (as described in the RCW),
 - Wait for a proceed from us (no more release after 10 days if no answer), and
 - Wait 10 business days for ALL firearms, frames and receivers

RCW 9.41.090

Dealer deliveries regulated—Hold on delivery—Fees authorized. (Effective January 1, 2024.)

(1) In addition to the other requirements of this chapter, no dealer may deliver a firearm to the purchaser thereof until:

- (a) The purchaser provides proof of completion of a recognized firearm safety training program within the last five years that complies with the requirements in RCW [9.41.1132](#), or proof that the purchaser is exempt from the training requirement;
- (b) The dealer is notified by the Washington state patrol firearms background check program that the purchaser is eligible to possess a firearm under state and federal law; and
- (c) The requirements and time periods in RCW [9.41.092](#) have been satisfied.

RCW 9.41.092

Licensed dealer deliveries—Background checks. (Effective January 1, 2024.)

Except as otherwise provided in this chapter, a licensed dealer may not deliver any firearm to a purchaser or transferee until:

- (1) The results of all required background checks are known and the purchaser or transferee (a) is not prohibited from owning or possessing a firearm under federal or state law and (b) does not have a voluntary waiver of firearm rights currently in effect; and
- (2) Ten business days have elapsed from the date the licensed dealer requested the background

check.

RCW 9.41.1132

Firearm sales and transfers—Firearms safety training program—Exceptions. (*Effective January 1, 2024.*)

(1) A person applying for the purchase or transfer of a firearm must provide proof of completion of a recognized firearms safety training program within the last five years that, at a minimum, includes instruction on:

- (a) Basic firearms safety rules;
- (b) Firearms and children, including secure gun storage and talking to children about gun safety;
- (c) Firearms and suicide prevention;
- (d) Secure gun storage to prevent unauthorized access and use;
- (e) Safe handling of firearms;
- (f) State and federal firearms laws, including prohibited firearms transfers and locations where firearms are prohibited;
- (g) State laws pertaining to the use of deadly force for self-defense; and
- (h) Techniques for avoiding a criminal attack and how to manage a violent confrontation, including conflict resolution.

(2) The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury that the training included the minimum requirements.

(3) The training may include stories provided by individuals with lived experience in the topics listed in subsection (1)(a) through (g) of this section or an understanding of the legal and social impacts of discharging a firearm.

(4) The firearms safety training requirement of this section does not apply to:

- (a) A person who is a:
 - (i) General authority Washington peace officer as defined in RCW 10.93.020;
 - (ii) Limited authority Washington peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm;
 - (iii) Specially commissioned Washington peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm; or
 - (iv) Federal peace officer as defined in RCW 10.93.020 who as a normal part of their duties has arrest powers and carries a firearm; or
- (b) A person who is an active duty member of the armed forces of the United States, an active member of the national guard, or an active member of the armed forces reserves who, as part of the applicant's service, has completed, within the last five years, a course of training in firearms proficiency or familiarization that included training on the safe handling and shooting proficiency with firearms.

3. On February 1, 2024, RCW 9.41.111 will go into effect requiring Firearm Transfer Application (FTA) forms for frames and receivers:

RCW 9.41.111

Firearm frames or receivers—Background check—Penalty.

(1) Beginning on the date that is thirty days after the Washington state patrol issues a notification to dealers that a state firearms background check system is established within the Washington state patrol, a dealer shall use the state firearms background check system to conduct background checks for purchases or transfers of firearm frames or receivers in accordance with this section.

(a) A dealer may not deliver a firearm frame or receiver to a purchaser or transferee unless the dealer first conducts a background check of the applicant through the state firearms background check system and the requirements or time periods in *RCW 9.41.092(1) have been satisfied.

(b) When processing an application for the purchase or transfer of a firearm frame or receiver, a dealer shall comply with the application, recordkeeping, and other requirements of this chapter that apply to the sale or transfer of a pistol.

(c) A signed application for the purchase or transfer of a firearm frame or receiver shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release, to an inquiring court, law enforcement agency, or the state, information relevant to the applicant's eligibility to possess a firearm. Any mental health information received by a court, law enforcement agency, or the state pursuant to this section shall not be disclosed except as provided in RCW 42.56.240(4).

(d) The department of licensing shall keep copies or records of applications for the purchase or transfer of a firearm frame or receiver and copies or records of firearm frame or receiver transfers in the same manner as pistol and semiautomatic assault rifle application and transfer records under RCW 9.41.129.

(e) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a firearm frame or receiver is guilty of false swearing under RCW 9A.72.040.

(f) This section does not apply to sales or transfers of firearm frames or receivers to licensed dealers.

(2) For the purposes of this section, "firearm frame or receiver" means the federally regulated part of a firearm that provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

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Speaking of Black Friday, I just wanted to share that we received 2295 background check submissions that day. Our previous high day was November 10, 2023 with 958. All you FFLs were busy!!!! SAFE was able to automatically adjudicate 44% of those checks without any human intervention, meaning a lot of transferees were able to get their firearm on the same day. And on Saturday, our second busiest day so far, SAFE adjudicated 446 of the 988 checks submitted (over 45% of the checks submitted).

When the Implementation Plan was created back in 2020 for our program, it assumed an auto-adjudication rate of 35%. We've met or exceeded that since day one. But, we're also slowly increasing that percentage by adding more rules for SAFE to use in deciding whether or not a human examiner needs to make the final decision. There are some background checks where the person has absolutely nothing in the record, SAFE can auto-proceed those. There are other background checks that have specific responses that SAFE can use to auto-deny. The rest are in the middle and require a human to make the final decision. This was something we knew would be a part of the rollout of SAFE and would take some time to do. As we learn more about how SAFE functions, we're able to give it better instructions, which ultimately means a faster background check for you.

I'd also like to take this opportunity to provide the data and share some answers to our latest survey for those questions/comments that did not provide an email address.

Q1: Are you aware that you are not required to use the SAFE generated 4473? 75% yes / 25% No – You are under no obligation to use the 4473, it's there as a convenience if you wish to use it.

Q2: How often do you use the SAFE generated 4473? 47% never, 39% Every time, 14% combined for the rest.

Q3: How often do you have a transferee use the "Buyer-Code" to complete the Section B information of the 4473? 71% never, 14% every time, 15% combined for the rest. Several comments asked "What is the buyer-code?". We cover it in our online training, topic 12-17 "External Transferee Portal". Basically, it is a place for the transferee to fill out their information for Section B ahead of time, and then provide the FFL an 8 character code to enter into SAFE. This speeds up the FFL entry time instead of typing all the Section B information.

Q4: Are you aware that, as the final step in the background check process, all "Proceed" status background checks require a transfer date to be entered within 35 days of the background check submission? 84% yes/16% no We give you 35 days to enter a transfer date, but that does NOT override the 30 day expiration of the NICS check...so the transfer still needs to happen within that 30 days.

Q5: Would you be in favor of a pop-up banner to remind you of "Proceed" status background checks nearing the 35 day mark, before the information is purged from SAFE? 90% yes, 10% no. We've already asked our vendor to work on adding this.

A few more comments/questions in response to the survey:

NICS is open on weekends----why aren't you ?? Because the background check process has never been conducted by anyone at the state prior to this project, we are still in the process of hiring and training our examiners. We have been hiring since early this year, to be prepared for when we went live. We can only hire as many people as apply and get through our background check (which, because we are a criminal justice agency, is a bit more stringent than the average state agency). So, ultimately, we have limited personnel resources with which to adjudicate background checks, while at the same time, more and more FFLs are onboarding and using SAFE. It's a balancing act to be sure. We made the business decision to have our employees work standard state schedules because of the ability for SAFE to auto adjudicate approximately half of all submitted checks. Even with the examiners working Monday-Friday, we are adjudicating the vast majority of them within a few days.

Please try and include a way for certain FFL's to be able to go back and see forms already processed that have disappeared. We have situations where we need to print out the FTA again because our employees threw them away and we don't have access to that once the proceeds disappear. Because of federal law, we are unable to do this. We are required to purge all personal information within 24 hours of the transfer date being entered.

It would be really nice to have a release date for items that require a waiting period, especially after the mandatory waiting period goes into effect. Also, for the type of firearm, we need an "other" or something like it. For instance the mossberg shockwave, the ATF has us enter "Pistol Grip Shotgun" in our A&D books. We already have our vendor working on both of these, which should be deployed soon. Under state law, any PGF with a barrel length of less than 16 inches is a Pistol, and needs to be submitted as such, so that the FTA information is transmitted to DOL as required. We have confirmed with the ATF that they will defer to state law on these. We are in the process of adding PGF and Other Firearm to accommodate PGFs with a barrel length over 16 inches, and those other firearms that are not described in state law.

Buyer code: Little trust by buyers right now that the data is secured, given the history of state database breaches (WDFW hunting license system, Employment Security breach/scam, etc.). Because we are a criminal justice agency, and SAFE is our system, it was required to meet the security requirements of the Criminal Justice Information Services (CJIS)

Security Policy for protecting the data. These requirements include specific high level encryption (“FIPS 140-2”) and other protections.

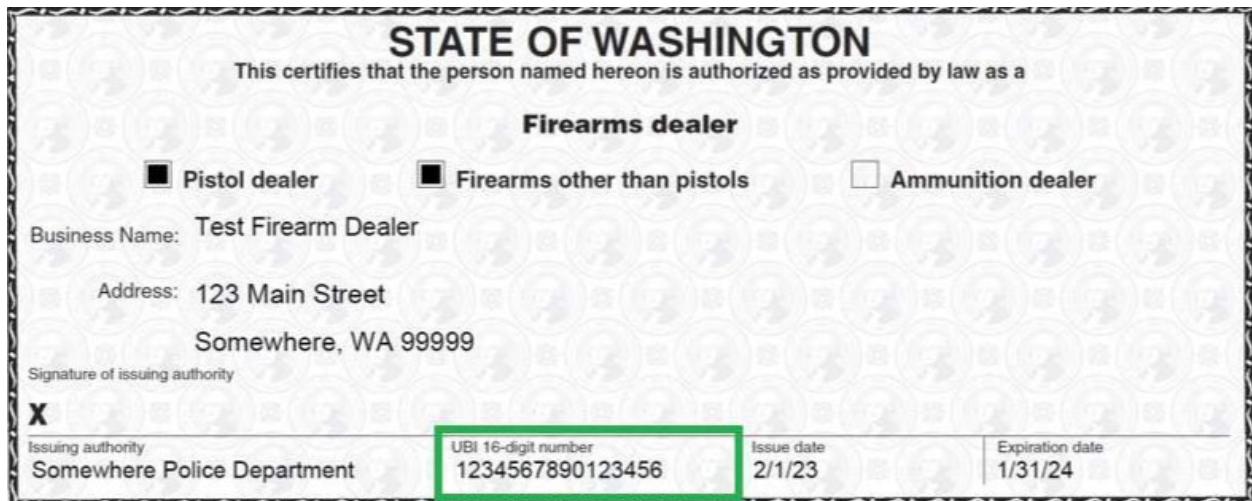
The SAFE program sessions time out pretty frequently, making it difficult to keep a session open and available to check statuses throughout the day. I wonder if there is a way we could receive email notifications for background check status updates such as: "you have a status update" or "you have an approval" so that we know to check the SAFE program The SAW authentication is set to time out after 1 hour for security reasons. We’ll look into possibly having an email notification for status changes.

More info on question 4 please? I enter the transfer date as I deliver the firearm. Is there another step??? That is the final step!

Any new "Proceed" or "Denial" that has not been opened by a user should be highlighted, this would make it way easier and faster for us to update our 4473, the customers, and make sure we don't miss any. Already being developed by our vendor!

I have received many "updates" on SAFE, and I attended the meeting in Tumwater, BUT --- I have never gotten my "onboarding letter"! The last of the onboarding letters were sent in October, so if you haven’t received yours, it’s because you are not showing up in the Department of Licensing database we use to verify that you have a valid State Firearm Dealer License. If you haven’t received the letter, please answer follow this process:

1. Do you have a current State Firearm Dealer License? It looks like this:



2. If you DON’T have one, you’ll need to get one. Further information is available here: <https://www.dol.wa.gov/professional-licenses/firearms-dealers>
3. If you DO have one, then the information needs to be updated with the Department of Licensing. You’ll need to go to the law enforcement agency that issued it, and have them send the documents and proof of payment of the \$125 fee to the firearms@dol.wa.gov.
4. If you DO have one, we can get you onboarded with SAFE while the paperwork is sorted out. Please send a picture or scan of your State Firearm Dealer License to firearms@wsp.wa.gov and we’ll provide you your login credentials.

Thank you,

Kevin

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